

AMENDED IN ASSEMBLY APRIL 28, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 991

**Introduced by Assembly ~~Member Perata~~ Members Shelley
and Perata**

February 27, 1997

~~An act relating to weapons. An act to add Section 42655 to the Food and Agricultural Code, and to amend Sections 11106, 12001, 12021, 12026.2, 12072, 12076, 12077, and 12082 of the Penal Code, relating to firearms.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 991, as amended, ~~Perata~~ Shelley. ~~Deadly weapons: ammunition~~ Firearms.

(1) Existing law prohibits any person who has been convicted of specified misdemeanors from owning, possessing, or having a firearm under his or her possession or control.

This bill would include among these misdemeanors a misdemeanor violation for furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register of sales prepared by a licensed firearms dealer. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(2) Under existing law, if the convictions described in (1) above occurred prior to January 1, 1991, a person may petition the court only once for relief from the prohibition.

This bill instead would permit any person who is subject to the prohibition because of a conviction of an offense prior to the offense being added to the specified offenses that are subject to the prohibition, to petition the court only once for relief from the prohibition.

(3) Existing law regulates the delivery, sale, or transfer of a firearm by persons who are licensed under federal law and whose licensed premises are located in this state.

This bill, commencing on or after January 1, 1998, would require any of these persons who is a personal handgun importer to comply with certain prescribed conditions within 30 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state. The bill also would require any of these persons, also licensed as collectors, who acquire and take actual possession outside of this state of a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic to report to the Department of Justice in a prescribed format his or her acquisition of that firearm within 5 days of transporting that firearm into this state. A violation of these requirements would be punishable as either a misdemeanor or felony. Because this bill would create new crimes, it would impose a state-mandated local program.

(4) Existing law makes it a misdemeanor to furnish a fictitious name or address or knowingly furnish any incorrect information or knowingly omit any information required to be provided for the register of sales prepared by a licensed firearms dealer.

This bill would make this offense punishable as either a misdemeanor or a felony. By increasing the punishment for an existing crime, this bill would impose a state-mandated local program.

(5) The bill also would require the Department of Food and Agriculture at any inspection station maintained at or near the California border to display specified notices concerning the bringing of firearms into this state.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law regulates the sale, purchase, possession, and use of ammunition.~~

~~This bill would express the intent of the Legislature to restrict the sales of weapon ammunition.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

~~1 SECTION 1. It is the intent of the Legislature to
2 restrict the sale of weapon ammunition.~~

3 SECTION 1. Section 42655 is added to the Food and
4 Agricultural Code, to read:

5 42655. At any inspection station maintained at or near
6 the California border by the director pursuant to Section
7 42654, the following sign shall be conspicuously posted in
8 block letters not less than four inches in height:

9 "NOTICE: IF YOU ARE A CALIFORNIA RESIDENT,
10 THE FEDERAL GUN CONTROL ACT PROBABLY
11 PROHIBITS YOU FROM BRINGING WITH YOU INTO
12 THIS STATE FIREARMS THAT YOU ACQUIRED
13 OUTSIDE OF THIS STATE.

14 IN ADDITION, IF YOU ARE A NEW CALIFORNIA
15 RESIDENT, STATE LAW REGULATES YOUR
16 BRINGING INTO CALIFORNIA HANDGUNS AND
17 OTHER DESIGNATED FIREARMS AND MANDATES
18 THAT SPECIFIC PROCEDURES BE FOLLOWED.

19 IF YOU HAVE ANY QUESTIONS ABOUT THE
20 PROCEDURES TO BE FOLLOWED IN BRINGING
21 FIREARMS INTO CALIFORNIA OR TRANSFERRING
22 FIREARMS WITHIN CALIFORNIA, YOU SHOULD
23 CONTACT THE CALIFORNIA DEPARTMENT OF
24 JUSTICE OR A LOCAL CALIFORNIA LAW
25 ENFORCEMENT AGENCY."

26 SEC. 2. Section 11106 of the Penal Code is amended
27 to read:

28 11106. (a) In order to assist in the investigation of
29 crime, the arrest and prosecution of criminals, and the

1 recovery of lost, stolen, or found property, the Attorney
2 General shall keep and properly file a complete record of
3 all copies of fingerprints, copies of applications for
4 licenses to carry firearms issued pursuant to Section
5 12050, information reported to the Department of Justice
6 pursuant to Section 12053, dealers' records of sales of
7 firearms, reports provided pursuant to Section 12072 or
8 12078, forms provided pursuant to Section 12084, reports
9 provided pursuant to Section 12071 that are not dealers'
10 records of sales of firearms, and reports of stolen, lost,
11 found, pledged, or pawned property in any city or county
12 of this state, and shall, upon proper application therefor,
13 furnish to the officers mentioned in Section 11105, hard
14 copy printouts of those records as photographic,
15 photostatic, and nonerasable optically stored
16 reproductions.

17 (b) (1) Notwithstanding subdivision (a), the
18 Attorney General shall not retain or compile any
19 information from reports filed pursuant to subdivision (a)
20 of Section 12078 for firearms that are not pistols,
21 revolvers, or other firearms capable of being concealed
22 upon the person, from forms submitted pursuant to
23 Section 12084 for firearms that are not pistols, revolvers,
24 or other firearms capable of being concealed upon the
25 person, or from dealers' records of sales for firearms that
26 are not pistols, revolvers, or other firearms capable of
27 being concealed upon the person. All copies of the forms
28 submitted, or any information received in electronic
29 form, pursuant to Section 12084 for firearms that are not
30 pistols, revolvers, or other firearms capable of being
31 concealed upon the person, or of the dealers' records of
32 sales for firearms that are not pistols, revolvers, or other
33 firearms capable of being concealed upon the person shall
34 be destroyed within five days of the clearance by the
35 Attorney General, unless the purchaser or transferor is
36 ineligible to take possession of the firearm. All copies of
37 the reports filed, or any information received in
38 electronic form, pursuant to subdivision (a) of Section
39 12078 for firearms that are not pistols, revolvers, or other
40 firearms capable of being concealed upon the person shall

1 be destroyed within five days of the receipt by the
2 Attorney General, unless retention is necessary for use in
3 a criminal prosecution.

4 (2) A peace officer, the Attorney General, a
5 Department of Justice employee designated by the
6 Attorney General, or any authorized local law
7 enforcement employee shall not retain or compile any
8 information from a firearms transaction record, as
9 defined in paragraph (5) of subdivision (c) of Section
10 12071, for firearms that are not pistols, revolvers, or other
11 firearms capable of being concealed upon the person
12 unless retention or compilation is necessary for use in a
13 criminal prosecution or in a proceeding to revoke a
14 license issued pursuant to Section 12071.

15 (3) A violation of this subdivision is a misdemeanor.

16 (c) (1) The Attorney General shall permanently keep
17 and properly file and maintain all information reported
18 to the Department of Justice pursuant to Sections 12071,
19 12072, 12078, 12082, and 12084 or any other law, as to
20 pistols, revolvers, or other firearms capable of being
21 concealed upon the person and maintain a registry
22 thereof.

23 (2) The registry shall consist of all of the following:

24 (A) The name, address, identification of, place of birth
25 (state or country), complete telephone number,
26 occupation, sex, description, and all legal names and
27 aliases ever used by the owner or person being loaned the
28 particular pistol, revolver, or other firearm capable of
29 being concealed upon the person as listed on the
30 information provided to the department on the *Dealers'*
31 Record of Sale, the Law Enforcement Firearms Transfer
32 (LEFT), as defined in Section 12084, or reports made to
33 the department pursuant to Section 12078 or any other
34 law.

35 (B) The name and address of, and other information
36 about, any person (whether a dealer or a private party)
37 from whom the owner acquired or the person being
38 loaned the particular pistol, revolver, or other firearm
39 capable of being concealed upon the person and when
40 the firearm was acquired or loaned as listed on the

1 information provided to the department on the *Dealers'*
2 Record of Sale, the LEFT, or reports made to the
3 department pursuant to Section 12078 or any other law.

4 (C) Any waiting period exemption applicable to the
5 transaction which resulted in the owner of or the person
6 being loaned the particular pistol, revolver, or other
7 firearm capable of being concealed upon the person
8 acquiring or being loaned that firearm.

9 (D) The manufacturer's name if stamped on the
10 firearm; model name or number if stamped on the
11 firearm; and, if applicable, the serial number, other
12 number (if more than one serial number is stamped on
13 the firearm), caliber, type of firearm, if the firearm is new
14 or used, barrel length, and color of the firearm.

15 (3) Information in the registry referred to in this
16 subdivision shall, upon proper application therefor, be
17 furnished to the officers referred to in Section 11105 or to
18 the person listed in the registry as the owner or person
19 who is listed as being loaned the particular pistol,
20 revolver, or other firearm capable of being concealed
21 upon the person in the form of hard copy printouts of that
22 information as photographic, photostatic, and
23 nonerasable optically stored reproductions.

24 *SEC. 3. Section 12001 of the Penal Code is amended*
25 *to read:*

26 12001. (a) As used in this title, the terms "pistol,"
27 "revolver," and "firearm capable of being concealed
28 upon the person" shall apply to and include any device
29 designed to be used as a weapon, from which is expelled
30 a projectile by the force of any explosion, or other form
31 of combustion, and which has a barrel less than 16 inches
32 in length. These terms also include any device which has
33 a barrel 16 inches or more in length which is designed to
34 be interchanged with a barrel less than 16 inches in
35 length.

36 (b) As used in this title, "firearm" means any device,
37 designed to be used as a weapon, from which is expelled
38 through a barrel a projectile by the force of any explosion
39 or other form of combustion.



(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term “firearm” includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term “firearm” also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) (1) For purposes of Sections 12070, 12071, and subdivisions (b), (c), ~~and~~ (d), and (f) of Section 12072, the term “firearm” does not include an unloaded firearm which is defined as an “antique firearm” in Section 921(a)(16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term “firearm” does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a “pistol,” “revolver,” or “firearm capable of being concealed upon the person” from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term “BB device” means any instrument which expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun.

(h) As used in this title, “wholesaler” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers,

1 importers, or gunsmiths pursuant to Chapter 44
2 (commencing with Section 921) of Title 18 of the United
3 States Code, or persons licensed pursuant to Section
4 12071, and includes persons who receive finished parts of
5 firearms and assemble them into completed or partially
6 completed firearms in furtherance of that purpose.

7 “Wholesaler” shall not include a manufacturer,
8 importer, or gunsmith who is licensed to engage in those
9 activities pursuant to Chapter 44 (commencing with
10 Section 921) of Title 18 of the United States Code or a
11 person licensed pursuant to Section 12071 and the
12 regulations issued pursuant thereto. A wholesaler also
13 does not include those persons dealing exclusively in
14 grips, stocks, and other parts of firearms that are not
15 frames or receivers thereof.

16 (i) As used in Section 12071, 12072, or 12084,
17 “application to purchase” means any of the following:

18 (1) The initial completion of the register by the
19 purchaser, transferee, or person being loaned the firearm
20 as required by subdivision (b) of Section 12076.

21 (2) The initial completion of the LEFT by the
22 purchaser, transferee, or person being loaned the firearm
23 as required by subdivision (d) of Section 12084.

24 (3) The initial completion and transmission to the
25 department of the record of electronic or telephonic
26 transfer by the dealer on the purchaser, transferee, or
27 person being loaned the firearm as required by
28 subdivision (c) of Section 12076.

29 (j) For purposes of Section 12023, a firearm shall be
30 deemed to be “loaded” whenever both the firearm and
31 the unexpended ammunition capable of being
32 discharged from the firearm are in the immediate
33 possession of the same person.

34 (k) For purposes of Sections 12021, 12021.1, 12025,
35 12070, 12072, 12073, 12078, and 12101 of this code, and
36 Sections 8100, 8101, and 8103 of the Welfare and
37 Institutions Code, notwithstanding the fact that the term
38 “any firearm” may be used in those sections, each firearm
39 or the frame or receiver of the same shall constitute a
40 distinct and separate offense under those sections.

1 (l) For purposes of Section 12020, a violation of that
2 section as to each firearm, weapon, or device enumerated
3 therein shall constitute a distinct and separate offense.

4 (m) Pursuant to this title, any firearms eligibility
5 determination involving the issuance of any license,
6 permit, or certificate may include the submission of the
7 applicant's fingerprints to the United States Federal
8 Bureau of Investigation.

9 (n) As used in this chapter, a "personal handgun
10 importer" means an individual who meets all of the
11 following criteria:

12 (1) He or she is not a person licensed pursuant to
13 Section 12071.

14 (2) He or she is not a licensed manufacturer of
15 firearms pursuant to Chapter 44 (commencing with
16 Section 921) of Title 18 of the United States Code.

17 (3) He or she is not a licensed importer of firearms
18 pursuant to Chapter 44 (commencing with Section 921)
19 of Title 18 of the United States Code and the regulations
20 issued pursuant thereto.

21 (4) He or she is the owner of a pistol, revolver, or other
22 firearm capable of being concealed upon the person.

23 (5) He or she acquired that pistol, revolver, or other
24 firearm capable of being concealed upon the person
25 outside of California.

26 (6) He or she moves into this state on or after January
27 1, 1998, as a resident of this state.

28 (7) He or she intends to possess that firearm within this
29 state on or after January 1, 1998, as a resident of this state.

30 (8) The firearm was not delivered to him or her by a
31 person licensed pursuant to Section 12071 who delivered
32 that firearm following the procedures set forth in Section
33 12071 and subdivision (c) of Section 12072.

34 (9) The firearm is not a firearm that is prohibited by
35 subdivision (a) of Section 12020.

36 (10) The firearm is not an assault weapon, as defined
37 in Section 12276.

38 (11) The firearm is not a machinegun, as defined in
39 Section 12200.

1 *SEC. 4. Section 12021 of the Penal Code is amended*
2 *to read:*

3 12021. (a) (1) Any person who has been convicted
4 of a felony under the laws of the United States, of the State
5 of California, or any other state, government, or country,
6 or of an offense enumerated in subdivision (a), (b), or (d)
7 of Section 12001.6, or who is addicted to the use of any
8 narcotic drug, who owns or has in his or her possession or
9 under his or her custody or control any firearm is guilty
10 of a felony.

11 (2) Any person who has two or more convictions for
12 violating paragraph (2) of subdivision (a) of Section 417
13 and who owns or has in his or her possession or under his
14 or her custody or control any firearm is guilty of a felony.

15 (b) Notwithstanding subdivision (a), any person who
16 has been convicted of a felony or of an offense
17 enumerated in Section 12001.6, when that conviction
18 results from certification by the juvenile court for
19 prosecution as an adult in an adult court under Section
20 707 of the Welfare and Institutions Code, who owns or has
21 in his or her possession or under his or her custody or
22 control any firearm is guilty of a felony.

23 (c) (1) Except as provided in subdivision (a) or
24 paragraph (2) of this subdivision, any person who has
25 been convicted of a misdemeanor violation of Section 71,
26 76, 136.5, or 140, subdivision (d) of Section 148, Section
27 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5,
28 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9,
29 646.9, 12023, or 12024, subdivision (b) or (d) of Section
30 12034, *paragraph (1) or (2) of subdivision (l) of Section*
31 *12076*, Section 12040, subdivision (b) of Section 12072,
32 subdivision (a) of former Section 12100, Section 12220,
33 12320, or 12590, or Section 8100, 8101, or 8103 of the
34 Welfare and Institutions Code, any firearm-related
35 offense pursuant to Sections 871.5 and 1001.5 of the
36 Welfare and Institutions Code, or of the conduct
37 punished in paragraph (3) of subdivision (g) of Section
38 12072, and who, within 10 years of the conviction, owns,
39 or has in his or her possession or under his or her custody
40 or control, any firearm is guilty of a public offense, which

1 shall be punishable by imprisonment in a county jail not
2 exceeding one year or in the state prison, by a fine not
3 exceeding one thousand dollars (\$1,000), or by both that
4 imprisonment and fine. The court, on forms prescribed
5 by the Department of Justice, shall notify the department
6 of persons subject to this subdivision. However, the
7 prohibition in this paragraph may be reduced,
8 eliminated, or conditioned as provided in paragraph (2)
9 or (3).

10 (2) Any person employed as a peace officer described
11 in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5
12 whose employment or livelihood is dependent on the
13 ability to legally possess a firearm, who is subject to the
14 prohibition imposed by this subdivision because of a
15 conviction under Section 273.5, 273.6, or 646.9, may
16 petition the court only once for relief from this
17 prohibition. The petition shall be filed with the court in
18 which the petitioner was sentenced. If possible, the
19 matter shall be heard before the same judge that
20 sentenced the petitioner. Upon filing the petition, the
21 clerk of the court shall set the hearing date and shall
22 notify the petitioner and the prosecuting attorney of the
23 date of the hearing. Upon making each of the following
24 findings, the court may reduce or eliminate the
25 prohibition, impose conditions on reduction or
26 elimination of the prohibition, or otherwise grant relief
27 from the prohibition as the court deems appropriate:

28 (A) Finds by a preponderance of the evidence that the
29 petitioner is likely to use a firearm in a safe and lawful
30 manner.

31 (B) Finds that the petitioner is not within a prohibited
32 class as specified in subdivision (a), (b), (d), (e), or (g)
33 or Section 12021.1, and the court is not presented with any
34 credible evidence that the petitioner is a person
35 described in Section 8100 or 8103 of the Welfare and
36 Institutions Code.

37 (C) Finds that the petitioner does not have a previous
38 conviction under this subdivision no matter when the
39 prior conviction occurred.

1 In making its decision, the court shall consider the
2 petitioner's continued employment, the interest of
3 justice, any relevant evidence, and the totality of the
4 circumstances. The court shall require, as a condition of
5 granting relief from the prohibition under this section,
6 that the petitioner agree to participate in counseling as
7 deemed appropriate by the court. Relief from the
8 prohibition shall not relieve any other person or entity
9 from any liability that might otherwise be imposed. It is
10 the intent of the Legislature that courts exercise broad
11 discretion in fashioning appropriate relief under this
12 paragraph in cases in which relief is warranted. However,
13 nothing in this paragraph shall be construed to require
14 courts to grant relief to any particular petitioner. It is the
15 intent of the Legislature to permit persons who were
16 convicted of an offense specified in Section 273.5, 273.6,
17 or 646.9 to seek relief from the prohibition imposed by this
18 subdivision.

19 (3) Any person who is subject to the prohibition
20 imposed by this subdivision because of a conviction *of an*
21 *offense* prior to ~~January 1, 1991~~ *that offense being added*
22 *to paragraph (1)*, may petition the court only once for
23 relief from this prohibition. The petition shall be filed
24 with the court in which the petitioner was sentenced. If
25 possible, the matter shall be heard before the same judge
26 that sentenced the petitioner. Upon filing the petition,
27 the clerk of the court shall set the hearing date and notify
28 the petitioner and the prosecuting attorney of the date of
29 the hearing. Upon making each of the following findings,
30 the court may reduce or eliminate the prohibition,
31 impose conditions on reduction or elimination of the
32 prohibition, or otherwise grant relief from the prohibition
33 as the court deems appropriate:

34 (A) Finds by a preponderance of the evidence that the
35 petitioner is likely to use a firearm in a safe and lawful
36 manner.

37 (B) Finds that the petitioner is not within a prohibited
38 class as specified in subdivision (a), (b), (d), (e), or (g)
39 or Section 12021.1, and the court is not presented with any
40 credible evidence that the petitioner is a person

1 described in Section 8100 or 8103 of the Welfare and
2 Institutions Code.

3 (C) Finds that the petitioner does not have a previous
4 conviction under this subdivision, no matter when the
5 prior conviction occurred.

6 In making its decision, the court may consider the
7 interest of justice, any relevant evidence, and the totality
8 of the circumstances. It is the intent of the Legislature
9 that courts exercise broad discretion in fashioning
10 appropriate relief under this paragraph in cases in which
11 relief is warranted. However, nothing in this paragraph
12 shall be construed to require courts to grant relief to any
13 particular petitioner.

14 (4) Law enforcement officials who enforce the
15 prohibition specified in this subdivision against a person
16 who has been granted relief pursuant to paragraph (2) or
17 (3), shall be immune from any liability for false arrest
18 arising from the enforcement of this subdivision unless
19 the person has in his or her possession a certified copy of
20 the court order that granted the person relief from the
21 prohibition. This immunity from liability shall not relieve
22 any person or entity from any other liability that might
23 otherwise be imposed.

24 (d) Any person who, as an express condition of
25 probation, is prohibited or restricted from owning,
26 possessing, controlling, receiving, or purchasing a firearm
27 and who owns, or has in his or her possession or under his
28 or her custody or control, any firearm but who is not
29 subject to subdivision (a) or (c) is guilty of a public
30 offense, which shall be punishable by imprisonment in a
31 county jail not exceeding one year or in the state prison,
32 by a fine not exceeding one thousand dollars (\$1,000), or
33 by both that imprisonment and fine. The court, on forms
34 provided by the Department of Justice, shall notify the
35 department of persons subject to this subdivision. The
36 notice shall include a copy of the order of probation and
37 a copy of any minute order or abstract reflecting the
38 order and conditions of probation.

39 (e) Any person who (1) is alleged to have committed
40 an offense listed in subdivision (b) of Section 707 of the

1 Welfare and Institutions Code, an offense described in
2 subdivision (b) of Section 1203.073, or any offense
3 enumerated in paragraph (1) of subdivision (c), (2) is
4 found to be a fit and proper subject to be dealt with under
5 the juvenile court law, and (3) is subsequently adjudged
6 a ward of the juvenile court within the meaning of Section
7 602 of the Welfare and Institutions Code because the
8 person committed an offense listed in subdivision (b) of
9 Section 707 of the Welfare and Institutions Code, an
10 offense described in subdivision (b) of Section 1203.073,
11 or any offense enumerated in paragraph (1) of
12 subdivision (c) shall not own, or have in his or her
13 possession or under his or her custody or control, any
14 firearm until the age of 30 years. A violation of this
15 subdivision shall be punishable by imprisonment in a
16 county jail not exceeding one year or in the state prison,
17 by a fine not exceeding one thousand dollars (\$1,000), or
18 by both that imprisonment and fine. The juvenile court,
19 on forms prescribed by the Department of Justice, shall
20 notify the department of persons subject to this
21 subdivision. Notwithstanding any other law, the forms
22 required to be submitted to the department pursuant to
23 this subdivision may be used to determine eligibility to
24 acquire a firearm.

25 (f) Subdivision (a) shall not apply to a person who has
26 been convicted of a felony under the laws of the United
27 States unless either of the following criteria is satisfied:

28 (1) Conviction of a like offense under California law
29 can only result in imposition of felony punishment.

30 (2) The defendant was sentenced to a federal
31 correctional facility for more than 30 days, or received a
32 fine of more than one thousand dollars (\$1,000), or
33 received both punishments.

34 (g) Every person who purchases or receives, or
35 attempts to purchase or receive, a firearm knowing that
36 he or she is subject to a protective order as defined in
37 Section 6218 of the Family Code, or a temporary
38 restraining order or injunction issued pursuant to Section
39 527.6 or 527.8 of the Code of Civil Procedure, is guilty of
40 a public offense, which shall be punishable by

1 imprisonment in a county jail not exceeding one year or
2 in the state prison, by a fine not exceeding one thousand
3 dollars (\$1,000), or by both that imprisonment and fine.
4 This subdivision does not apply unless the copy of the
5 restraining order personally served on the person against
6 whom the restraining order is issued contains a notice in
7 bold print stating (1) that the person is prohibited from
8 purchasing or receiving or attempting to purchase or
9 receive a firearm and (2) specifying the penalties for
10 violating this subdivision, or a court has provided actual
11 verbal notice of the firearm prohibition and penalty as
12 provided in Section 6304 of the Family Code. However,
13 this subdivision does not apply if the firearm is received
14 as part of the disposition of community property pursuant
15 to Division 7 (commencing with Section 2500) of the
16 Family Code.

17 *SEC. 5. Section 12026.2 of the Penal Code is amended*
18 *to read:*

19 12026.2. (a) Section 12025 does not apply to, or affect,
20 any of the following:

21 (1) The possession of a firearm by an authorized
22 participant in a motion picture, television, or video
23 production or entertainment event when the participant
24 lawfully uses the firearm as part of that production or
25 event or while going directly to, or coming directly from,
26 that production or event.

27 (2) The possession of a firearm in a locked container by
28 a member of any club or organization, organized for the
29 purpose of lawfully collecting and lawfully displaying
30 pistols, revolvers, or other firearms, while the member is
31 at meetings of the clubs or organizations or while going
32 directly to, and coming directly from, those meetings.

33 (3) The transportation of a firearm by a participant
34 when going directly to, or coming directly from, a
35 recognized safety or hunter safety class, or a recognized
36 sporting event involving that firearm.

37 (4) The transportation of a firearm by a person listed
38 in Section 12026 directly between any of the places
39 mentioned in Section 12026.

1 (5) The transportation of a firearm by a person when
2 going directly to, or coming directly from, a fixed place
3 of business or private residential property for the purpose
4 of the lawful repair or the lawful transfer, sale, or loan of
5 that firearm.

6 (6) The transportation of a firearm by a person listed
7 in Section 12026 when going directly from the place
8 where that person lawfully received that firearm to that
9 person's place of residence or place of business or to
10 private property owned or lawfully possessed by that
11 person.

12 (7) The transportation of a firearm by a person when
13 going directly to, or coming directly from, a gun show,
14 swap meet, or similar event to which the public is invited,
15 for the purpose of displaying that firearm in a lawful
16 manner.

17 (8) The transportation of a firearm by an authorized
18 employee or agent of a supplier of firearms when going
19 directly to, or coming directly from, a motion picture,
20 television, or video production or entertainment event
21 for the purpose of providing that firearm to an authorized
22 participant to lawfully use as a part of that production or
23 event.

24 (9) The transportation of a firearm by a person when
25 going directly to, or coming directly from, a target range,
26 which holds a regulatory or business license, for the
27 purposes of practicing shooting at targets with that
28 firearm at that target range.

29 (10) The transportation of a firearm by a person when
30 going directly to, or coming directly from, a place
31 designated by a person authorized to issue licenses
32 pursuant to Section 12050 when done at the request of the
33 issuing agency so that the issuing agency can determine
34 whether or not a license should be issued to that person
35 to carry that firearm.

36 (11) The transportation of a firearm by a person when
37 going directly to, or coming directly from, a law
38 enforcement agency for the purpose of a lawful transfer,
39 sale, or loan of that firearm pursuant to Section 12084.



1 (12) The transportation of a firearm by a person when
2 going directly to, or coming directly from, a lawful
3 camping activity for the purpose of having that firearm
4 available for lawful personal protection while at the
5 lawful campsite. This paragraph shall not be construed to
6 override the statutory authority granted to the
7 Department of Parks and Recreation or any other state
8 or local governmental agencies to promulgate rules and
9 regulations governing the administration of parks and
10 campgrounds.

11 (13) The transportation of a firearm by a person in
12 order to comply with subdivision (c) or (i) of Section
13 12078 as it pertains to that firearm.

14 (14) The transportation of a firearm by a person in
15 order to utilize subdivision (l) of Section 12078 as it
16 pertains to that firearm.

17 (15) The transportation of a firearm by a person when
18 going directly to, or coming directly from, a gun show or
19 event, as defined in Section 178.100 of Title 27 of the Code
20 of Federal Regulations, for the purpose of lawfully
21 transferring, selling, or loaning that firearm in
22 accordance with subdivision (d) of Section 12072.

23 (16) The transportation of a firearm by a person in
24 order to utilize paragraph (3) of subdivision (a) of
25 Section 12078 as it pertains to that firearm.

26 *(17) The transportation of a firearm by a person in*
27 *order to comply with paragraph (2) of subdivision (f) of*
28 *Section 12072 as it pertains to that firearm.*

29 *(18) The transportation of a firearm by a person in*
30 *order to comply with paragraph (3) of subdivision (f) of*
31 *Section 12072 as it pertains to that firearm.*

32 (b) In order for a firearm to be exempted under
33 subdivision (a), while being transported to or from a
34 place, the firearm shall be unloaded, kept in a locked
35 container, as defined in subdivision (d), and the course of
36 travel shall include only those deviations between
37 authorized locations as are reasonably necessary under
38 the circumstances.

39 (c) This section does not prohibit or limit the
40 otherwise lawful carrying or transportation of any pistol,

1 revolver, or other firearm capable of being concealed
2 upon the person in accordance with this chapter.

3 (d) As used in this section, “locked container” means
4 a secure container which is fully enclosed and locked by
5 a padlock, key lock, combination lock, or similar locking
6 device. The term “locked container” does not include the
7 utility or glove compartment of a motor vehicle.

8 *SEC. 6. Section 12072 of the Penal Code is amended*
9 *to read:*

10 12072. (a) (1) No person, corporation, or firm shall
11 knowingly supply, deliver, sell, or give possession or
12 control of a firearm to any person within any of the classes
13 prohibited by Section 12021 or 12021.1.

14 (2) No person, corporation, or dealer shall sell, supply,
15 deliver, or give possession or control of a firearm to any
16 person whom he or she has cause to believe to be within
17 any of the classes prohibited by Section 12021 or 12021.1
18 of this code or Section 8100 or 8103 of the Welfare and
19 Institutions Code.

20 (3) (A) No person, corporation, or firm shall sell, loan,
21 or transfer a firearm to a minor.

22 (B) Subparagraph (A) shall not apply to or affect those
23 circumstances set forth in subdivision (p) of Section
24 12078.

25 (4) No person, corporation, or dealer shall sell, loan, or
26 transfer a firearm to any person whom he or she knows
27 or has cause to believe is not the actual purchaser or
28 transferee of the firearm, or to any person who is not the
29 person actually being loaned the firearm, if the person,
30 corporation, or dealer has either of the following:

31 (A) Knowledge that the firearm is to be subsequently
32 loaned, sold, or transferred to avoid the provisions of
33 subdivision (c) or (d).

34 (B) Knowledge that the firearm is to be subsequently
35 loaned, sold, or transferred to avoid the requirements of
36 any exemption to the provisions of subdivision (c) or (d).

37 (5) No person, corporation, or dealer shall acquire a
38 firearm for the purpose of selling, transferring, or loaning
39 the firearm, if the person, corporation, or dealer has
40 either of the following:

1 (A) In the case of a dealer, intent to violate subdivision
2 (b) or (c).

3 (B) In any other case, intent to avoid either of the
4 following:

5 (i) The provisions of subdivision (d).

6 (ii) The requirements of any exemption to the
7 provisions of subdivision (d).

8 (6) The dealer shall comply with the provisions of
9 paragraph (18) of subdivision (b) of Section 12071.

10 (b) No person licensed under Section 12071 shall
11 supply, sell, deliver, or give possession or control of a
12 pistol, revolver, or firearm capable of being concealed
13 upon the person to any person under the age of 21 years
14 or any other firearm to a person under the age of 18 years.

15 (c) No dealer, whether or not acting pursuant to
16 Section 12082, shall deliver a firearm to a person, as
17 follows:

18 (1) Prior to April 1, 1997, within 15 days of the
19 application to purchase a pistol, revolver, or other firearm
20 capable of being concealed upon the person, or, after
21 notice by the department pursuant to subdivision (d) of
22 Section 12076, within 15 days of the submission to the
23 department of any correction to the application, or within
24 15 days of the submission to the department of any fee
25 required pursuant to subdivision (e) of Section 12076,
26 whichever is later. Prior to April 1, 1997, within 10 days of
27 the application to purchase any firearm that is not a pistol,
28 revolver, or other firearm capable of being concealed
29 upon the person, or, after notice by the department
30 pursuant to subdivision (d) of Section 12076, within 10
31 days of the submission to the department of any
32 correction to the application, or within 10 days of the
33 submission to the department of any fee required
34 pursuant to subdivision (e) of Section 12076, whichever
35 is later. On or after April 1, 1997, within 10 days of the
36 application to purchase, or, after notice by the
37 department pursuant to subdivision (d) of Section 12076,
38 within 10 days of the submission to the department of any
39 correction to the application, or within 10 days of the
40 submission to the department of any fee required

1 pursuant to subdivision (e) of Section 12076, whichever
2 is later.

3 (2) Unless unloaded and securely wrapped or
4 unloaded and in a locked container.

5 (3) Unless the purchaser, transferee, or person being
6 loaned the firearm presents clear evidence of his or her
7 identity and age, as defined in Section 12071, to the
8 dealer.

9 (4) Whenever the dealer is notified by the
10 Department of Justice that the person is in a prohibited
11 class described in Section 12021 or 12021.1 of this code or
12 Section 8100 or 8103 of the Welfare and Institutions Code.

13 (5) Commencing April 1, 1994, no pistol, revolver, or
14 other firearm capable of being concealed upon the
15 person shall be delivered unless the purchaser,
16 transferee, or person being loaned the firearm presents
17 to the dealer a ~~basic firearm~~ *firearms* safety certificate.

18 (d) Where neither party to the transaction holds a
19 dealer's license issued pursuant to Section 12071, the
20 parties to the transaction shall complete the sale, loan, or
21 transfer of that firearm through either of the following:

22 (1) A licensed dealer pursuant to Section 12082.

23 (2) A law enforcement agency pursuant to Section
24 12084.

25 (e) No person may commit an act of collusion relating
26 to Article 8 (commencing with Section 12800) of Chapter
27 6. For purposes of this section and Section 12071, collusion
28 may be proven by any one of the following factors:

29 (1) Answering a test applicant's questions during an
30 objective test relating to basic firearms safety.

31 (2) Knowingly grading the examination falsely.

32 (3) Providing an advance copy of the test to an
33 applicant.

34 (4) Taking or allowing another person to take the basic
35 firearms safety course for one who is the applicant for the
36 basic firearms safety certificate.

37 (5) Allowing another to take the objective test for the
38 applicant, purchaser, or transferee.

39 (6) Allowing others to give unauthorized assistance
40 during the examination.

(7) Reference to materials during the examination and cheating by the applicant.

(8) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as specified in subdivision (f) of Section 12805.

(f) (1) No person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code shall deliver, sell, or transfer a firearm to a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and whose licensed premises are located in this state unless one of the following conditions is met:

~~(1)~~

(A) The person presents proof of licensure pursuant to Section 12071 to that person.

~~(2)~~

(B) The person presents proof that he or she is exempt from licensure under Section 12071 to that person, in which case the person also shall present proof that the transaction is also exempt from the provisions of subdivision (d).

(2) (A) *On or after January 1, 1998, within 30 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state, a personal handgun importer shall do one of the following:*

(i) *Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question.*

(ii) *Sell or transfer the firearm in accordance with the provisions of subdivision (d) or in accordance with the provisions of an exemption from subdivision (d).*

(iii) *Sell or transfer the firearm to a dealer licensed pursuant to Section 12071.*

(iv) *Sell or transfer the firearm to a sheriff or police department.*

(B) *If the personal handgun importer sells or transfers the pistol, revolver, or other firearm capable of being concealed upon the person pursuant to subdivision (d) of Section 12072 and the sale or transfer cannot be*

1 completed by the dealer to the purchaser or transferee,
2 and the firearm can be returned to the personal handgun
3 importer, the personal handgun importer shall have
4 complied with the provisions of this paragraph.

5 (C) The provisions of this paragraph are cumulative
6 and shall not be construed as restricting the application
7 of any other law. However, an act or omission punishable
8 in different ways by this section and different provisions
9 of the Penal Code shall not be punished under more than
10 one provision.

11 (D) On and after January 1, 1998, the department shall
12 conduct a public education and notification program
13 regarding this paragraph to ensure a high degree of
14 publicity of the provisions of this paragraph. Any costs
15 incurred by the department to implement this paragraph
16 shall be absorbed by the department within its existing
17 budget and the fees in the Dealers' Record of Sale Special
18 Account allocated for implementation of this
19 subparagraph pursuant to Section 12076.

20 (3) Where a person who is licensed as a collector
21 pursuant to Chapter 44 (commencing with Section 921)
22 of Title 18 of the United States Code and the regulations
23 issued pursuant thereto, whose licensed premises are
24 within this state, acquires a pistol, revolver, or other
25 firearm capable of being concealed upon the person that
26 is a curio or relic, as defined in Section 178.11 of Title 27
27 of the Code of Federal Regulations, outside of this state,
28 takes actual possession of that firearm outside of this state
29 pursuant to the provisions of subsection (j) of Section 923
30 of Title 18 of the United States Code, as amended by
31 Public Law 104-208, and transports that firearm into this
32 state, within five days of that licensed collector
33 transporting that firearm into this state, he or she shall
34 report to the department in a format prescribed by the
35 department his or her acquisition of that firearm.

36 (g) (1) Except as provided in paragraph (2) or (3), a
37 violation of this section is a misdemeanor.

38 (2) If any of the following circumstances apply, a
39 violation of this section is punishable by imprisonment in
40 the state prison for two, three, or four years.

1 (A) If the violation is of paragraph (1) of subdivision
2 (a).

3 (B) If the defendant has a prior conviction of violating
4 this section or former Section 12100 of this code or Section
5 8101 of the Welfare and Institutions Code.

6 (C) If the defendant has a prior conviction of violating
7 any offense specified in subdivision (b) of Section 12021.1
8 or of a violation of Section 12020, 12220, or 12520, or of
9 former Section 12560.

10 (D) If the defendant is in a prohibited class described
11 in Section 12021 or 12021.1 of this code or Section 8100 or
12 8103 of the Welfare and Institutions Code.

13 (E) A violation of this section by a person who actively
14 participates in a “criminal street gang” as defined in
15 Section 186.22.

16 (F) A violation of subdivision (b) involving the
17 delivery of any firearm to a person who the dealer knows,
18 or should know, is a minor.

19 (3) If any of the following circumstances apply, a
20 violation of this section shall be punished by
21 imprisonment in a county jail not exceeding one year or
22 in the state prison, or by a fine not to exceed one thousand
23 dollars (\$1,000), or by both the fine and imprisonment.

24 (A) A violation of paragraph (2) of subdivision (a).

25 (B) A violation of paragraph (3) of subdivision (a)
26 involving the sale, loan, or transfer of a pistol, revolver, or
27 other firearm capable of being concealed upon the
28 person to a minor.

29 (C) A violation of paragraph (4) of subdivision (a).

30 (D) A violation of paragraph (5) of subdivision (a).

31 (E) A violation of subdivision (b) involving the
32 delivery of a pistol, revolver, or other firearm capable of
33 being concealed upon the person.

34 (F) A violation of paragraph (1), (3), (4), or (5) of
35 subdivision (c) involving a pistol, revolver, or other
36 firearm capable of being concealed upon the person.

37 (G) A violation of subdivision (d) involving a pistol,
38 revolver, or other firearm capable of being concealed
39 upon the person.

40 (H) A violation of subdivision (e).

(4) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(A) A violation of paragraph (2) of subdivision (a) or subdivision (b).

(B) The firearm transferred in violation of paragraph (2) of subdivision (a) or subdivision (b) is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

SEC. 7. Section 12076 of the Penal Code is amended to read:

12076. (a) (1) Before January 1, 1998, the department shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. ~~Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.~~

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller by the dealer, upon request.

(c) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. ~~Any person furnishing a factitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor.~~

(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento

1 by electronic or telephonic transfer on the date of the
2 application to purchase.

3 (3) The original of each record of electronic or
4 telephonic transfer shall be retained by the dealer in
5 consecutive order. Each original shall become the
6 permanent record of the transaction that shall be
7 retained for not less than three years from the date of the
8 last transaction and shall be provided for the inspection
9 of any peace officer, Department of Justice employee
10 designated by the Attorney General, or agent of the
11 federal Bureau of Alcohol, Tobacco, and Firearms, upon
12 the presentation of proper identification, but no
13 information shall be compiled therefrom regarding the
14 purchasers or other transferees of firearms that are not
15 pistols, revolvers, or other firearms capable of being
16 concealed upon the person.

17 (4) If requested, a copy of the record of electronic or
18 telephonic transfer shall be provided to the purchaser by
19 the dealer.

20 (5) If the transaction is one conducted pursuant to
21 Section 12082, a copy shall be provided to the seller by the
22 dealer, upon request.

23 (d) (1) The department shall examine its records, as
24 well as those records that it is authorized to request from
25 the State Department of Mental Health pursuant to
26 Section 8104 of the Welfare and Institutions Code, in
27 order to determine if the purchaser is a person described
28 in Section 12021 or 12021.1 of this code or Section 8100 or
29 8103 of the Welfare and Institutions Code.

30 (2) If the department determines that the purchaser
31 is a person described in Section 12021 or 12021.1 of this
32 code or Section 8100 or 8103 of the Welfare and
33 Institutions Code, it shall immediately notify the dealer
34 and the chief of the police department of the city or
35 county in which the sale was made, or if the sale was made
36 in a district in which there is no municipal police
37 department, the sheriff of the county in which the sale
38 was made, of that fact.

39 (3) If the department determines that the copies of
40 the register submitted to it pursuant to paragraph (3) of

1 subdivision (b) contain any blank spaces or inaccurate,
2 illegible, or incomplete information, preventing
3 identification of the purchaser or the pistol, revolver, or
4 other firearm to be purchased, or if any fee required
5 pursuant to subdivision (e) is not submitted by the dealer
6 in conjunction with submission of copies of the register,
7 the department may notify the dealer of that fact. Upon
8 notification by the department, the dealer shall submit
9 corrected copies of the register to the department, or
10 shall submit any fee required pursuant to subdivision (e),
11 or both, as appropriate and, if notification by the
12 department is received by the dealer at any time prior to
13 delivery of the firearm to be purchased, the dealer shall
14 withhold delivery until the conclusion of the waiting
15 period described in Sections 12071 and 12072.

16 (4) If the department determines that the information
17 transmitted to it pursuant to subdivision (c) contains
18 inaccurate or incomplete information preventing
19 identification of the purchaser or the pistol, revolver, or
20 other firearm capable of being concealed upon the
21 person to be purchased, or if the fee required pursuant to
22 subdivision (e) is not transmitted by the dealer in
23 conjunction with transmission of the electronic or
24 telephonic record, the department may notify the dealer
25 of that fact. Upon notification by the department, the
26 dealer shall transmit corrections to the record of
27 electronic or telephonic transfer to the department, or
28 shall transmit any fee required pursuant to subdivision
29 (e), or both, as appropriate, and if notification by the
30 department is received by the dealer at any time prior to
31 delivery of the firearm to be purchased, the dealer shall
32 withhold delivery until the conclusion of the waiting
33 period described in Sections 12071 and 12072.

34 (e) The Department of Justice may charge the dealer
35 a fee not to exceed fourteen dollars (\$14), except that the
36 fee may be increased at a rate not to exceed any increase
37 in the California Consumer Price Index as compiled and
38 reported by the California Department of Industrial
39 Relations. The fee shall be no more than is sufficient to

1 reimburse all of the following, and is not to be used to
2 directly fund or as a loan to fund any other program:

3 (1) (A) The department for the cost of furnishing this
4 information.

5 (B) The department for the cost of meeting its
6 obligations under paragraph (2) of subdivision (b) of
7 Section 8100 of the Welfare and Institutions Code.

8 (2) Local mental health facilities for state-mandated
9 local costs resulting from the reporting requirements
10 imposed by the amendments to Section 8103 of the
11 Welfare and Institutions Code, made by the act which also
12 added this paragraph.

13 (3) The State Department of Mental Health for the
14 costs resulting from the requirements imposed by the
15 amendments to Section 8104 of the Welfare and
16 Institutions Code made by the act which also added this
17 paragraph.

18 (4) Local mental hospitals, sanitariums, and
19 institutions for state-mandated local costs resulting from
20 the reporting requirements imposed by Section 8105 of
21 the Welfare and Institutions Code.

22 (5) Local law enforcement agencies for
23 state-mandated local costs resulting from the notification
24 requirements set forth in subdivision (a) of Section 6385
25 of the Family Code.

26 (6) Local law enforcement agencies for
27 state-mandated local costs resulting from the notification
28 requirements set forth in subdivision (c) of Section 8105
29 of the Welfare and Institutions Code.

30 (7) For the actual costs associated with the electronic
31 or telephonic transfer of information pursuant to
32 subdivision (c).

33 (8) *The Department of Food and Agriculture, in a sum*
34 *not to exceed one cent (\$0.01) per transaction, for the*
35 *costs resulting from the notification provisions set forth in*
36 *Section 42655 of the Food and Agricultural Code.*

37 (9) *The department, in a sum not to exceed four cents*
38 *(\$0.04) per transaction, for the costs associated with*
39 *subparagraph (D) of paragraph (2) of subdivision (f) of*
40 *Section 12072.*

1 The fee established pursuant to this subdivision shall
2 not exceed the sum of the actual processing costs of the
3 department, the estimated reasonable costs of the local
4 mental health facilities for complying with the reporting
5 requirements imposed by the act which added paragraph
6 (2) to this subdivision, the costs of the State Department
7 of Mental Health for complying with the requirements
8 imposed by the act which added paragraph (3) to this
9 subdivision, the estimated reasonable costs of local
10 mental hospitals, sanitariums, and institutions for
11 complying with the reporting requirements imposed by
12 the act which added paragraph (4) to this subdivision, the
13 estimated reasonable costs of local law enforcement
14 agencies for complying with the notification
15 requirements set forth in subdivision (a) of Section 6385
16 of the Family Code, and the estimated reasonable costs of
17 local law enforcement agencies for complying with the
18 notification requirements set forth in subdivision (c) of
19 Section 8105 of the Welfare and Institutions Code created
20 by the act which added paragraph (6) to this subdivision,
21 *the estimated reasonable costs of the Department of Food*
22 *and Agriculture, in a sum not to exceed one cent (\$0.01)*
23 *per transaction, for the costs resulting from the*
24 *notification provisions set forth in Section 42655 of the*
25 *Food and Agricultural Code, and the estimated*
26 *reasonable costs of the department, in a sum not to exceed*
27 *four cents (\$0.04) per transaction, for the costs associated*
28 *with subparagraph (D) of paragraph (2) of subdivision*
29 *(f) of Section 12072.*

30 (f) (1) The Department of Justice may charge a fee
31 sufficient to reimburse it for each of the following but not
32 to exceed fourteen dollars (\$14), except that the fee may
33 be increased at a rate not to exceed any increase in the
34 California Consumer Price Index as compiled and
35 reported by the California Department of Industrial
36 Relations:

37 (A) For the actual costs associated with the
38 preparation, sale, processing, and filing of forms or
39 reports required or utilized pursuant to Section 12078 if

1 neither a dealer nor a law enforcement agency acting
2 pursuant to Section 12084 is filing the form or report.

3 (B) For the actual processing costs associated with the
4 submission of a Dealers' Record of Sale to the department
5 by a dealer or of the submission of a LEFT to the
6 department by a law enforcement agency acting
7 pursuant to Section 12084 if the waiting period described
8 in Sections 12071, 12072, and 12084 does not apply.

9 (C) For the actual costs associated with the
10 preparation, sale, processing, and filing of reports utilized
11 pursuant to subdivision (l) of Section 12078 or paragraph
12 (18) of subdivision (b) of Section 12071, *or clause (i) of*
13 *subparagraph (A) of paragraph (2) of subdivision (f) of*
14 *Section 12072, or paragraph (3) of subdivision (f) of*
15 *Section 12072.*

16 (D) For the actual costs associated with the electronic
17 or telephonic transfer of information pursuant to
18 subdivision (c).

19 (2) If the department charges a fee pursuant to
20 subparagraph (B) of paragraph (1) of this subdivision, it
21 shall be charged in the same amount to all categories of
22 transaction that are within that subparagraph.

23 (3) Any costs incurred by the Department of Justice to
24 implement this subdivision shall be reimbursed from fees
25 collected and charged pursuant to this subdivision. No
26 fees shall be charged to the dealer pursuant to subdivision
27 (e) or to a law enforcement agency acting pursuant to
28 paragraph (6) of subdivision (d) of Section 12084 for costs
29 incurred for implementing this subdivision.

30 (g) All money received by the department pursuant to
31 this section shall be deposited in the Dealers' Record of
32 Sale Special Account of the General Fund, which is
33 hereby created, to be available, upon appropriation by
34 the Legislature, for expenditure by the department to
35 offset the costs incurred pursuant to this section,
36 *subparagraph (D) of paragraph (2) of subdivision (f) of*
37 *Section 12072, and Sections 12289 and 12809.*

38 (h) Where the electronic or telephonic transfer of
39 applicant information is used, the department shall

1 establish a system to be used for the submission of the fees
2 described in subdivision (e) to the department.

3 (i) (1) Only one fee shall be charged pursuant to this
4 section for a single transaction on the same date for the
5 sale of any number of firearms that are not pistols,
6 revolvers, or other firearms capable of being concealed
7 upon the person or for the taking of possession of those
8 firearms.

9 (2) In a single transaction on the same date for the
10 delivery of any number of firearms that are pistols,
11 revolvers, or other firearms capable of being concealed
12 upon the person, the department shall charge a reduced
13 fee pursuant to this section for the second and subsequent
14 firearms that are part of that transaction.

15 (j) Only one fee shall be charged pursuant to this
16 section for a single transaction on the same date for taking
17 title or possession of any number of firearms pursuant to
18 paragraph (18) of subdivision (b) of Section 12071 or
19 subdivision (c) or (i) of Section 12078.

20 (k) Whenever the Department of Justice acts
21 pursuant to this section as it pertains to firearms other
22 than pistols, revolvers, or other firearms capable of being
23 concealed upon the person, the department's acts or
24 omissions shall be deemed to be discretionary within the
25 meaning of the California Tort Claims Act pursuant to
26 Division 3.6 (commencing with Section 810) of Title 1 of
27 the Government Code.

28 (l) *A violation of this section is punishable as follows:*

29 (1) *Where the person furnishes a fictitious name or*
30 *address or knowingly furnishes any incorrect information*
31 *or knowingly omitting any information required to be*
32 *provided for the register, by imprisonment in a county jail*
33 *not to exceed one year or by imprisonment in the state*
34 *prison.*

35 (2) *Where the person furnishes a fictitious name or*
36 *address or knowingly furnishes any incorrect information*
37 *or knowingly omitting any information required to be*
38 *provided for the electronic or telephonic transfer, by*
39 *imprisonment in a county jail not to exceed one year or*
40 *by imprisonment in the state prison.*

1 (3) *In any case not specified in paragraph (1) or (2),*
2 *as a misdemeanor.*

3 (m) As used in this section, the following definitions
4 apply:

5 (1) “Purchaser” means the purchaser or transferee of
6 a firearm or a person being loaned a firearm.

7 (2) “Purchase” means the purchase, loan, or transfer
8 of a firearm.

9 (3) “Sale” means the sale, loan, or transfer of a firearm.

10 (4) “Seller” means, if the transaction is being
11 conducted pursuant to Section 12082, the person selling,
12 loaning, or transferring the firearm.

13 SEC. 8. *Section 12077 of the Penal Code is amended*
14 *to read:*

15 12077. (a) The Department of Justice shall prescribe
16 the form of the register and the record of electronic or
17 telephonic transfer pursuant to Section 12074.

18 (b) For pistols, revolvers, and other firearms capable
19 of being concealed upon the person, information
20 contained in the register or record of electronic or
21 telephonic transfer shall be the date and time of sale,
22 make of firearm, peace officer exemption status pursuant
23 to subdivision (a) of Section 12078 and the agency name,
24 dealer waiting period exemption pursuant to subdivision

25 (n) of Section 12078, *dangerous weapons permitholder*
26 *waiting period exemption pursuant to subdivision (r) of*
27 *Section 12078*, curio and relic waiting period exemption
28 pursuant to subdivision (t) of Section 12078, California
29 Firearms Dealer number issued pursuant to Section
30 12071, ~~dangerous weapons permitholder waiting period~~
31 ~~exemption pursuant to subdivision (r) of Section 12078,~~
32 purchaser’s basic firearms safety certificate number
33 issued pursuant to Sections 12805 and 12809,
34 manufacturer’s name if stamped on the firearm, model
35 name or number, if stamped on the firearm, if applicable,
36 serial number, other number (if more than one serial
37 number is stamped on the firearm), caliber, type of
38 firearm, if the firearm is new or used, barrel length, color
39 of the firearm, full name of purchaser, purchaser’s
40 complete date of birth, purchaser’s local address, if

1 current address is temporary, complete permanent
 2 address of purchaser, identification of purchaser,
 3 purchaser's place of birth (state or country), purchaser's
 4 complete telephone number, purchaser's occupation,
 5 purchaser's sex, purchaser's physical description, all legal
 6 names and aliases ever used by the purchaser, yes or no
 7 answer to questions that prohibit purchase including, but
 8 not limited to, conviction of a felony as described in
 9 Section 12021 or an offense described in Section 12021.1,
 10 the purchaser's status as a person described in Section
 11 8100 of the Welfare and Institutions Code, whether the
 12 purchaser is a person who has been adjudicated by a court
 13 to be a danger to others or found not guilty by reason of
 14 insanity, whether the purchaser is a person who has been
 15 found incompetent to stand trial or placed under
 16 conservatorship by a court pursuant to Section 8103 of the
 17 Welfare and Institutions Code, signature of purchaser,
 18 signature of salesperson (as a witness to the purchaser's
 19 signature), name and complete address of the dealer or
 20 firm selling the firearm as shown on the dealer's license,
 21 the establishment number, if assigned, the dealer's
 22 complete business telephone number, any information
 23 required by Section 12082, and a statement ~~that of the~~
 24 *penalties for* any person signing a fictitious name or
 25 address or *for* knowingly furnishing any incorrect
 26 information or *for* knowingly omitting any information
 27 required to be provided for the register ~~is guilty of a~~
 28 ~~misdemeanor.~~

29 (c) For firearms other than pistols, revolvers, or other
 30 firearms capable of being concealed upon the person,
 31 information contained in the register or record of
 32 electronic or telephonic transfer shall be the date and
 33 time of sale, peace officer exemption status pursuant to
 34 subdivision (a) of Section 12078 and the agency name,
 35 auction or event waiting period exemption pursuant to
 36 subdivision (g) of Section 12078, California Firearms
 37 Dealer number issued pursuant to Section 12071,
 38 dangerous weapons permitholder waiting period
 39 exemption pursuant to subdivision (r) of Section 12078,
 40 full name of purchaser, purchaser's complete date of

1 birth, purchaser's local address, if current address is
2 temporary, complete permanent address of purchaser,
3 identification of purchaser, purchaser's place of birth
4 (state or country), purchaser's complete telephone
5 number, purchaser's occupation, purchaser's sex,
6 purchaser's physical description, all legal names and
7 aliases ever used by the purchaser, yes or no answer to
8 questions that prohibit purchase, including, but not
9 limited to, conviction of a felony as described in Section
10 12021 or an offense described in Section 12021.1, the
11 purchaser's status as a person described in Section 8100 of
12 the Welfare and Institutions Code, whether the
13 purchaser is a person who has been adjudicated by a court
14 to be a danger to others or found not guilty by reason of
15 insanity, whether the purchaser is a person who has been
16 found incompetent to stand trial or placed under
17 conservatorship by a court pursuant to Section 8103 of the
18 Welfare and Institutions Code, signature of purchaser,
19 signature of salesperson (as a witness to the purchaser's
20 signature), name and complete address of the dealer or
21 firm selling the firearm as shown on the dealer's license,
22 the establishment number, if assigned, the dealer's
23 complete business telephone number, any information
24 required by Section 12082, and a statement~~that of the~~
25 *penalties for* any person signing a fictitious name or
26 address or *for* knowingly furnishing any incorrect
27 information or *for* knowingly omitting any information
28 required to be provided for the register~~is guilty of a~~
29 ~~misdemeanor.~~

30 (d) Where the register is used, the following shall
31 apply:

32 (1) Dealers shall use ink to complete each document.

33 (2) The dealer or salesperson making a sale shall
34 ensure that all information is provided legibly. The dealer
35 and salespersons shall be informed that incomplete or
36 illegible information will delay sales.

37 (3) Each dealer shall be provided instructions
38 regarding the procedure for completion of the form and
39 routing of the form. Dealers shall comply with these

1 instructions which shall include the information set forth
2 in this subdivision.

3 (4) One firearm transaction shall be reported on each
4 record of sale document. For purposes of this subdivision,
5 a “transaction” means a single sale, loan, or transfer of any
6 number of firearms that are not pistols, revolvers, or other
7 firearms capable of being concealed upon the person.

8 (e) The dealer or salesperson making a sale shall
9 ensure that all required information has been obtained
10 from the purchaser. The dealer and all salespersons shall
11 be informed that incomplete information will delay sales.

12 (f) As used in this section, the following definitions
13 shall control:

14 (1) “Purchaser” means the purchaser or transferee of
15 a firearm or the person being loaned a firearm.

16 (2) “Purchase” means the purchase, loan, or transfer
17 of a firearm.

18 (3) “Sale” means the sale, loan, or transfer of a firearm.

19 *SEC. 9. Section 12082 of the Penal Code is amended*
20 *to read:*

21 12082. (a) A person shall complete any sale, loan, or
22 transfer of a firearm through a person licensed pursuant
23 to Section 12071 in accordance with this section in order
24 to comply with subdivision (d) of Section 12072. ~~The~~
25 ~~Attorney General shall adopt regulations under this~~
26 ~~section to allow the seller or transferor or the person~~
27 ~~loaning the firearm and the purchaser or transferee or the~~
28 ~~person being loaned the firearm to complete a sale, loan,~~
29 ~~or transfer through a dealer, and to allow those persons~~
30 ~~and the dealer to comply with the requirements of this~~
31 ~~section and of Sections 12071, 12072, 12076, and 12077 and~~
32 ~~to preserve the confidentiality of records. The register or~~
33 ~~record of electronic or telephonic transfer shall state the~~
34 ~~name and address of the seller or transferor of the firearm~~
35 ~~or the person loaning the firearm in addition to any other~~
36 ~~information required by Section 12077.~~ The seller or
37 transferor or the person loaning the firearm shall deliver
38 the firearm to the dealer who shall retain possession of
39 that firearm. The dealer shall then deliver the firearm to
40 the purchaser or transferee or the person being loaned

1 the firearm, if it is not prohibited, in accordance with
2 subdivision (c) of Section 12072. If the dealer cannot
3 legally deliver the firearm to the purchaser or transferee
4 or the person being loaned the firearm, the dealer shall
5 forthwith, without waiting for the conclusion of the
6 waiting period described in Sections 12071 and 12072,
7 return the firearm to the transferor or seller or the person
8 loaning the firearm. The dealer shall not return the
9 firearm to the seller or transferor or the person loaning
10 the firearm when to do so would constitute a violation of
11 subdivision (a) of Section 12072. If the dealer cannot
12 legally return the firearm to the transferor or seller or the
13 person loaning the firearm, then the dealer shall
14 forthwith deliver the firearm to the sheriff of the county
15 or the chief of police or other head of a municipal police
16 department of any city or city and county who shall then
17 dispose of the firearm in the manner provided by Sections
18 12028 and 12032. The purchaser or transferee or person
19 being loaned the firearm may be required by the dealer
20 to pay a fee not to exceed ten dollars (\$10) per firearm,
21 plus the applicable fee that the Department of Justice
22 may charge pursuant to Section 12076. Nothing in these
23 provisions shall prevent a dealer from charging a smaller
24 fee. The fee that the department may charge is the fee
25 that would be applicable pursuant to Section 12076, if the
26 dealer was selling, transferring, or delivering a firearm to
27 a purchaser or transferee or person being loaned a
28 firearm, without any other parties being involved in the
29 transaction.

30 *(b) The Attorney General shall adopt regulations*
31 *under this section to do all of the following:*

32 *(1) Allow the seller or transferor of the person loaning*
33 *the firearm, and the purchaser or transferee or the person*
34 *being loaned the firearm, to complete a sale, loan, or*
35 *transfer through a dealer; and to allow those persons and*
36 *the dealer to comply with the requirements of this section*
37 *and Sections 12071, 12072, 12076, and 12077 and to*
38 *preserve the confidentiality of those records.*

39 *(2) Where a personal handgun importer is selling or*
40 *transferring a pistol, revolver, or other firearm capable of*

1 *being concealed upon the person to comply with clause*
2 *(ii) of subparagraph (A) of paragraph (2) of subdivision*
3 *(f) of Section 12072, to allow a personal handgun*
4 *importer's ownership of the pistol, revolver, or other*
5 *firearm capable of being concealed upon the person*
6 *being sold or transferred to be recorded in a manner that*
7 *if the firearm is returned to that personal handgun*
8 *importer because the sale or transfer cannot be*
9 *completed, the Department of Justice will have sufficient*
10 *information about that personal handgun importer so*
11 *that a record of his or her ownership can be maintained*
12 *in the registry provided by subdivision (c) of Section*
13 *11106.*

14 *(3) Ensure that the register or record of electronic or*
15 *telephonic transfer shall state the name and address of the*
16 *seller or transferor of the firearm or the person loaning*
17 *the firearm or of the personal handgun importer in*
18 *addition to any other information required by Section*
19 *12077.*

20 *(c) A violation of this section by a dealer is a*
21 *misdemeanor.*

22 *SEC. 10. No reimbursement is required by this act*
23 *pursuant to Section 6 of Article XIII B of the California*
24 *Constitution because the only costs that may be incurred*
25 *by a local agency or school district will be incurred*
26 *because this act creates a new crime or infraction,*
27 *eliminates a crime or infraction, or changes the penalty*
28 *for a crime or infraction, within the meaning of Section*
29 *17556 of the Government Code, or changes the definition*
30 *of a crime within the meaning of Section 6 of Article*
31 *XIII B of the California Constitution.*

32 *Notwithstanding Section 17580 of the Government*
33 *Code, unless otherwise specified, the provisions of this act*
34 *shall become operative on the same date that the act*
35 *takes effect pursuant to the California Constitution.*